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United States of America

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
PIOQUINTO FERNANDEZ-CARRANZA,  
  
Defendant.

CASE NO. 2:21-CR-00086-TLN  
  
STIPULATION REGARDING USE OF  
VIDEOCONFERENCING DURING HEARING;  
ORDER  
  
DATE: February 10, 2022  
TIME: 9:30 a.m.  
COURT: Hon. Troy L. Nunley

**BACKGROUND AND SUMMARY OF STIPULATION**

On May 6, 2021, a grand jury returned an indictment charging the defendant, Pioquinto Fernandez-Carranza, with one count of being a previously deported alien found in the United States, in violation of 8 U.S.C. § 1326. ECF No. 3. The United States of America (the “government”) and the defendant entered into a plea agreement pursuant to the government’s Fast-Track Immigration Prosecution Program. This matter is now set for a combination change of plea and sentencing hearing under the Fast-Track program on February 10, 2022, at 9:30 a.m.

On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”). The CARES Act empowered the Judicial Conference of the United States and Chief District Judges to authorize plea and sentencing hearings by video or telephonic conference when such hearings cannot be conducted in person without seriously jeopardizing public health and safety, and “the district judge in a particular case finds for specific reasons that the plea or sentencing in that

1 case cannot be further delayed without serious harm to the interests of justice.” Coronavirus Aid, Relief,  
2 and Economic Security Act, Pub. L. No. 116-23, § 15002(b)(2), 134 Stat. 281, 527–29 (2020).

3 On March 29, 2020, the Judicial Conference of the United States made the findings required by  
4 the CARES Act, concluding that “emergency conditions due to the national emergency declared by the  
5 President under the National Emergencies Act (50 U.S.C. § 1601, et seq.) with respect to the  
6 Coronavirus Disease 2019 (COVID-19) have materially affected and will materially affect the  
7 functioning of the federal courts generally.”

8 On December 21, 2021, for the reasons set forth in General Orders 610, 611, 612, 613, 614, 615,  
9 616, 617, 618, 620, 621, 624, 628, 630, 631, 632, and 635, the Chief Judge of this District, per General  
10 Order 640, extended the findings and authorizations required by the CARES Act for another ninety days  
11 from the date of entry of General Order 640. In order to authorize change of plea and sentencing  
12 hearings by remote means, however, the CARES Act—as implemented by the General Orders listed  
13 above—also requires district courts in individual cases to find, for specific reasons, that felony pleas and  
14 sentencings cannot be further delayed without serious harm to the interests of justice. *Id.* The General  
15 Orders listed above require that the defendant consent to remote proceedings. Finally, remote  
16 proceedings must be conducted by videoconference unless “video teleconferencing is not reasonably  
17 available.” *Id.* In such cases, district courts may conduct hearings by teleconference. *Id.*

18 The parties hereby stipulate and agree that each of the requirements of the CARES Act and the  
19 General Orders listed above have been satisfied in this case. They request that the Court enter an order  
20 making the specific findings required by the CARES Act and the General Orders listed above.  
21 Specifically, for the reasons further set forth below, the parties agree that:

22 1. The Fast-Track hearing in this case cannot be further delayed without serious harm to the  
23 interest of justice, given the public health restrictions on physical contact, the fact that the parties have  
24 reached a plea agreement to resolve this case, and the backlog of cases that is likely to increase in the  
25 Eastern District of California if criminal matters do not resolve by videoconference when the defendant  
26 consents and once an agreement has been reached between the parties;

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1           6.       On April 16, 2020, the Judicial Council of the Ninth Circuit declared a judicial  
2 emergency in this district pursuant to 18 U.S.C. § 3174(d), based on the Eastern District of California's  
3 critically low resources across its heavy caseload. The report accompanying the Judicial Council's  
4 declaration analyzed the public safety dangers associated with the COVID-19 pandemic and examined  
5 both the district's caseload (the Eastern District of California currently ranks first in the Ninth Circuit  
6 and eighth nationally in weighted filings) and its shortage of judicial resources (the district is currently  
7 authorized only six district judges, and one of those positions is currently vacant). The report further  
8 explained that a backlog of cases exists that can only start to be alleviated when the CDC lifts its  
9 guidance regarding gatherings of individuals.

10           7.       General Orders 614, 616, 617, 618, 620, 621, 624, 628, 630, 632, 635, and 640 have also  
11 made findings and implemented temporary emergency procedures in response to the COVID-19 crisis,  
12 and these General Orders either remain in effect or have been superseded by a subsequent General Order  
13 extending their provisions.

14           8.       Given these facts, it is essential that judges in this district resolve as many matters as  
15 possible via videoconference and teleconference during the COVID-19 pandemic. By holding these  
16 hearings now, this district will be in a better position to work through the backlog of criminal and civil  
17 matters once in-person hearings resume to a pre-pandemic extent.

18           9.       The Fast-Track hearing in this case accordingly cannot be further delayed without serious  
19 harm to the interests of justice. If the Court were to delay this hearing until it can be held in person, it  
20 would only add to the enormous backlog of criminal and civil matters facing the Court, and every judge  
21 in this district, when normal operations resume.

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10. Under CARES Act § 15002(b), the defendant consents to proceed with the combination change of plea and sentencing hearing by videoconference. Defense counsel joins in this consent.

IT IS SO STIPULATED.

Dated: January 31, 2022

PHILLIP A. TALBERT  
United States Attorney

/s/ SAM STEFANKI  
SAM STEFANKI  
Assistant United States Attorney

Dated: January 31, 2022

/s/ HOOTAN BAIGMOHAMMADI  
HOOTAN BAIGMOHAMMADI  
Counsel for Defendant  
PIOQUINTO FERNANDEZ-CARRANZA

### FINDINGS AND ORDER

1. The Court adopts the findings above.

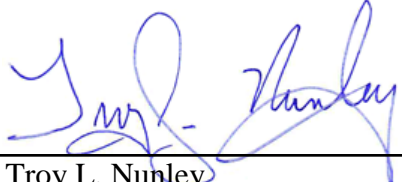
2. Further, the Court specifically finds that:

a) The Fast-Track change of plea and sentencing hearing in this case cannot be further delayed without serious harm to the interests of justice; and

b) The defendant has waived his physical presence at the Fast-Track hearing and consents to remote hearing by videoconference.

3. Therefore, based on the findings above, and under the Court's authority under § 15002(b) of the CARES Act and General Orders 614 and 640, the combination change of plea and sentencing hearing in this case will be conducted by videoconference.

IT IS SO FOUND AND ORDERED this 2<sup>nd</sup> day of February, 2022.

  
Troy L. Nunley  
United States District Judge